

REMARKS:

Claims 1-3, 5-12 and 14-18 are presented for examination, with claims 1-3, 5-12 and 14-18 having been amended hereby and claims 4, 13 and 19-79 having been cancelled, without prejudice or disclaimer.

The title of the application has been amended to SYSTEM AND METHOD FOR PROVIDING A FUEL PURCHASE INCENTIVE.

Reconsideration is respectfully requested of the rejection of claims 1-3, 5-12 and 14-18 under 35 U.S.C. 101 as being directed to non-statutory subject matter.

In this regard, the claims now explicitly recite the element of providing the user the calculated payment.

It is believed that such amendment should address the Examiner's point made at page 2 of the September 17, 2004 Office Action regarding the amount being "forwarded, refunded or credited to the user or the user's account".

Therefore, it is respectfully submitted that the rejection of claims 1-3, 5-12 and 14-18 under 35 U.S.C. 101 as being directed to non-statutory subject matter has been overcome.

Reconsideration is respectfully requested of the rejection of claim 5 under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicants regard as the invention.

More particularly, claim 5 has been amended hereby to recite that program price is based upon the other data/values, rather than "including" such other data values (of note, although not explicitly rejected by the Examiner on these grounds, claim 14 has been amended in a similar manner).

Therefore, it is respectfully submitted that the rejection of claim 5 under 35 U.S.C. 112, second paragraph, has been overcome.

Reconsideration is respectfully requested of the rejection of claims 1-3, 5-12 and 14-18 under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 6,321,984 ("McCall et al.") in view of the "Oil Week" document.

To begin with, it is respectfully submitted that applicants do not necessarily concur with the Examiner in the Examiner's analysis of the claims of the present application and the McCall et al. and Oil Week disclosures.

For example, it is noted that McCall et al. explicitly teaches (as mentioned briefly by the Examiner) a discounted price given at the time of fuel purchase, as opposed to a rebate at a later time (see, e.g., col. 2, lines 47-57):

When purchasing fuel, the customer inputs the received authorization code at the pump by scanning in the bar code from the receipt, swiping a magnetic card, entering a code on a key pad, or the like. The pump controller then compares the customer entered authorization code with the code received from the reward system. The pump controller then adjusts the purchase price by subtracting the discount amount and allows the fuel to be dispensed at that rate for this transaction only. At this time a point of sale terminal associated with the fuel dispensing apparatus may also be notified of the adjusted fuel price. (emphasis added)

In this regard, it is respectfully submitted that such teaching of McCall et al. regarding the discounted price being given at the time of fuel purchase would, in fact, render the McCall et al./Oil Week combination proposed by the Examiner non-obvious.

Nevertheless, in order to expedite prosecution of the application, claims 1 and 10 have been amended hereby to more particularly point out the feature of the invention directed to the payment to each user being based at least in part upon one of a first program price for that user and a second program price for that user, wherein the first program price for a given user is independent of the first program price for other users and is applied when the geographic location of the automotive fuel purchase corresponds to the anticipated geographic area associated with automotive fuel purchases for that that user and the second program price for that user is independent of the second program price for other users and is applied when the geographic location of the automotive fuel purchase does not correspond to the anticipated geographic area associated with automotive fuel purchases for that user.

It is respectfully submitted that none of the applied references show or suggest this feature of the claimed invention. That is, none of the cited references show or suggest a first program price (independent of other users) for a given user in a defined geographic purchasing area and a second program price (independent of other users) for that user outside of the defined geographic purchasing area.

Of note, in connection with now cancelled claims 4, 13, 24 and 34, the Examiner had asserted (at page 9 of the September 17, 2004 Office Action) that “the prices exemplified in the

applied references are taken to be in dollars which suggests the pricing is based on locations where the dollar is the accepted currency (i.e. the US).”

It is respectfully submitted that such pricing (i.e., based on locations where the dollar is the accepted currency) at most suggests a single, absolute price which may be converted into different currencies and does nothing to show or suggest either: (a) the claimed geographically tiered pricing, that is, different prices (not just currencies) based on geographic location; or (b) the claimed user-by-user tiered pricing, that is, pricing for one user with a particular anticipated geographic area associated with automotive fuel purchases being independent of pricing for another user with a particular anticipated geographic area associated with automotive fuel purchases.

Of further note, the Examiner had asserted (at page 12 of the September 17, 2004 Office Action), via “Official Notice”, that “retailers create different promotion pricing for different portions of the country [having] different retail pricing.”

Concerning such “Official Notice”, applicants do not necessarily concur with the Examiner regarding what retailers have done in the past. Nevertheless, for the purposes of the current discussion it will be assumed, *arguendo*, as the Examiner asserts, that it has been known for retailers to create different promotion pricing for different portions of the country having different retail pricing. In this regard, it is respectfully submitted that such a retail pricing pattern does nothing to show or suggest the claimed user-by-user tiered pricing, that is, pricing for one user with a particular anticipated geographic area associated with automotive fuel purchases being independent of pricing for another user with a particular anticipated geographic area associated with automotive fuel purchases.

Therefore, it is respectfully submitted that the rejection of claims 1-3, 5-12 and 14-18 under 35 U.S.C. 103(a) as being unpatentable over McCall et al. in view of the Oil Week document has been overcome.

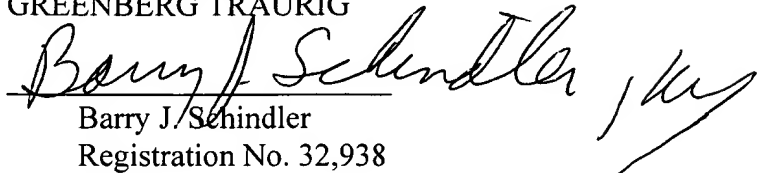
Finally, it is noted that this Amendment is fully supported by the originally filed application and thus, no new matter has been added. For this reason, the Amendment should be entered.

More particularly, support for the amendments to the claims is found in claims 1-20, as filed; at page 9, line 30 to page 10, line 19; page 11, lines 8-14; in Figs. 2, 3 and 5; and

throughout the specification.

Accordingly, it is respectfully submitted that each objection and rejection raised by the Examiner in the September 17, 2004 Office Action has been overcome and that the above-identified application is now in condition for allowance.

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